**THE HON'BLE MS JUSTICE G.ROHINI**

Writ Petition No.10297 of 2005

09.12.2005

Between:

Seelam Vijayakumar

**... PETITONER**

AND

The Commissioner, A.P.Charitable and Hindu Religious Institutions and Endowments Department, Hyderabad and others.

**.....RESPONDENTS**

**THE HON'BLE MS JUSTICE G.ROHINI**

Writ Petition No.10297 of 2005

**ORDER:**

This writ petition is filed seeking a declaration that the action of the respondents in not selling the lands in Survey No.234 to an extent of Ac.5.05 cents situated in Yerraguntla village, Sirivella Mandal as arbitrary and illegal.

It is not in dispute that the petitioner was granted lease in respect of lands to an extent of Ac.5.05 cents situated in Survey No.234 of Yerraguntla village, Sirivella Mandal, which admittedly belongs to third respondent-temple. It is also not in dispute that the said lease was granted for a period of three years i.e., from 2003-2006 by way of public auction conducted on 14.07.2003. The contention of the petitioner in this writ petition is that he is a landless poor person and he has been in possession and enjoyment of the lands in question for more than 15 years and he is entitled to the benefit of Section 82 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'). According to the petitioner, in terms of Section 82 of the Act, the third respondent-temple ought to have alienated the lands in question in his favour. Hence, this writ petition.

On behalf of the third respondent, a counter affidavit has been filed in which the fact that the petitioner was granted lease and it is valid upto June, 2006 has not been denied. However, it is stated that the petitioner is not a landless poor person since admittedly he is in possession of Ac.5.05 cents of wet land. However, the plea of the petitioner that he is in continuous possession of the lands for the last 15 years has been denied and it is stated that for the first time he has

been inducted into possession since he was the successful bidder in the auction conducted in the year 2003.

At the outset, it is to be noted that under Section 82 of the Act – any lease of agricultural land belonging to any endowment subsisting on the date of commencement of the Act, shall stand terminated, except where such lessee is declared to be a landless poor person, following the procedure under the Rules made in G.O.Ms.No.379 Revenue (Endowments-1) Department, dated 11.03.2003. In the case on hand, though the petitioner pleaded that the lease granted in his favour was subsisting as on the date of commencement of the Act, the third respondent-temple has categorically denied the same. Even according to the petitioner, he was granted lease in the year 2003 by way of public auction and that itself shows that the lease was not subsisting as on the date of commencement of the Act. At any rate, since the petitioner is in possession of Ac.5.05 cents of wet land, he cannot be treated as a landless poor person as defined in explanation to Section 82(2) of the Act.

In the circumstances, I do not find any substance in the contentions of the petitioner that he is entitled to the benefit of Section 82(2) of the Act and that the respondents shall be directed to alienate the lands in his favour. No such mandamus can be issued compelling the respondents to alienate the lands. However, it is made clear that the petitioner shall not be dispossessed from the lands in question as long as the lease granted in his favour is subsisting.

With the above observations, the writ petition is disposed of. No costs.

_____

12.12.2005

VGB